

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**ELIJAH REID, # M-12485,**

**Plaintiff,**

**vs.**

**MARVIN F. POWERS, and  
WEXFORD HEALTH,**

**Defendants.**

**Case No. 12-1259-GPM**

**MEMORANDUM AND ORDER**

**MURPHY, District Judge:**

This matter is before the Court on Plaintiff's motion to dismiss his complaint without prepaying fees or costs (Doc. 9). Plaintiff is currently incarcerated at Pontiac Correctional Center ("Pontiac"), and filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 while he was confined at Tamms Correctional Center. Plaintiff's motion is **GRANTED IN PART AND DENIED IN PART**. All other pending motions are **DENIED** as moot.

Under Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, voluntary withdrawal of his claim is Plaintiff's right. Accordingly, this action is **DISMISSED WITHOUT PREJUDICE**. However, Plaintiff's request to be relieved of his obligation to pay fees or costs is **DENIED**. Even though he has dismissed his claim, Plaintiff must still pay the filing fee for this case. *See* 28 U.S.C. § 1915(b)(1), (e)(2); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998) (a prisoner incurs the obligation to pay the filing fee for a lawsuit when the suit is filed, and the obligation continues regardless of later developments in the suit, such as dismissal of the suit or denial of leave to proceed IFP). Therefore, as previously ordered in Doc. 7, the agency having custody of Plaintiff shall continue to forward monthly payments from Plaintiff's trust

fund account in accordance with 28 U.S.C. § 1915(b)(2) until the statutory filing fee of \$350.00 is paid in its entirety.

**IT IS SO ORDERED.**

**DATED:** February 12, 2013

s/ *G. Patrick Murphy*  
G. PATRICK MURPHY  
United States District Judge